

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554 ~~STATE~~

ORIGINAL

In the Matter of)

Federal-State Joint Board on)
Universal Service)

NPCR, INC. d/b/a NEXTEL PARTNERS)

Petition for Designation as an)
Eligible Telecommunications Carrier)
in the State of Alabama)

File No.

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

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**PETITION FOR DESIGNATION AS AN ELIGIBLE
TELECOMMUNICATIONS CARRIER IN THE STATE OF ALABAMA**

NPCR, Inc. d/b/a Nextel Partners ("Nextel Partners"), by its undersigned counsel and pursuant to Section 214(e)(6) of the Communications Act of 1934, as amended (the "Act"), hereby submits this Petition for Designation ("Petition") as an eligible telecommunications carrier ("ETC") in the State of Alabama. Nextel Partners is licensed to, and provides, wireless telecommunications services throughout certain designated areas (the "Designated Areas") of the State of Alabama.¹ Nextel Partners seeks designation as an ETC for both study areas of rural telephone companies as defined in Section 153(37) of the Act, as well as wire centers of non-rural incumbent LECs.² As demonstrated herein, and certified in Attachment 1 to this Petition, Nextel Partners meets all of the requirements for designation as an ETC in each of these Designated Areas and respectfully requests that the Commission promptly grant this Petition.

¹ Nextel Partners holds A and/or B and C Block EA licenses throughout the State of Alabama.

² A list of the rural telephone company study areas and non-rural incumbent LEC wire centers for which Nextel Partners seeks designation in this Petition (also referred to herein as the "Designated Areas") is set forth as **Attachment 1** hereto.

I. Nextel Partners Meets All the Requirements for Designation as an Eligible Telecommunications Carrier to Serve the Designated Areas in the State of Alabama

Under Section 214(e)(6) of the Act, 47 U.S.C. § 214(e)(6), the Commission, consistent with the public interest, convenience and necessity, may, with respect to an area served by a rural telephone company, and shall, in all other cases, designate more than one common carrier as an ETC for a designated service area, so long as the requesting carrier meets the requirements of § 214(e)(1). The Commission has previously identified the showing a carrier must make to meet the requirements of § 214(e)(6).³ As demonstrated below, and as set forth in the declaration of Donald Manning, **Attachment 5** hereto, Nextel Partners meets each of these requirements.

A. Nextel Partners Will Provide Service Over its Own Facilities

Nextel Partners has sufficient wireless network infrastructure facilities and capacity to provide supported services throughout the Designated Areas in the State of Alabama over its own facilities.

B. Nextel Partners Offers All Required Services and Functionalities

Nextel Partners offers, or will offer upon designation as an ETC in the Designated Areas, all of the services and functionalities required by Section 54.101(a) of the Commission's Rules, 47 CFR § 54.101(a), including the following:

1. Voice grade access to the public switched telephone network. Voice grade access to the public switched telephone network ("PSTN") means the ability to make and receive traditional voice phone calls, within a bandwidth of approximately 3500 Hertz.⁴ Nextel Partners' voice grade access enables a user of telecommunications services to transmit voice

³ Procedures for FCC Designation of Eligible Telecommunications Carriers Pursuant to Section 214(3)(6) of the Communications Act, FCC 97-419 (released December 29, 1997).

⁴ See *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, First Report and Order, 12 FCC Rcd 8776 at 8810-11 ("USF Order").

communications, including signaling the network that the caller wishes to place a call, and to receive voice communications, including receiving a signal indicating there is an incoming call. The bandwidth for Nextel Partners' voice grade access is, at a minimum, 300 to 3,000 Hertz.

2. **Local Usage.** As part of the voice grade access to the PSTN, an ETC must provide local calling. Nextel Partners, through its wireless network, provides subscribers the ability to send and receive local phone calls both over Nextel Partners' network and through interconnection with the incumbent local exchange carriers serving the Designated Areas. Local usage is included in all of Nextel Partners' calling plans. As a designated ETC, Nextel Partners will comply with any and all minimum local usage requirements adopted by the Commission.

3. **Dual tone multi-frequency ("DTMF") signaling or its functional equivalent.** DTMF signaling allows carriers to provide expeditious call setup, and enables modem usage.⁵ Nextel Partners uses out-of-band signaling and in-band multifrequency signaling that is functionally equivalent to DTMF.

4. **Single-party service or its functional equivalent.** Nextel Partners provides customers with single-party access for the duration of every phone call. Nextel Partners does not provide "multi-party" or "party line" services.

5. **Access to 911 and E911 emergency service.** The Commission has declared that access to emergency services is essential.⁶ Nextel Partners provides universal access to the 911 system for its customers, and has implemented and will continue to implement E911 services consistent with the Commission's Rules and Orders and local PSAP requests. As of February 1, 2003, Nextel Partners has launched 24 Alabama counties at Phase I with 7 counties pending for Phase II E911 service.

⁵ *USF Order* at 8814.

⁶ *Id.* at 8815.

6. **Access to operator services.** Nextel Partners offers all of its customers access to operator services, in accordance with the Commission's requirements.

7. **Access to interexchange service ("IXC").** Nextel Partners customers can use the Nextel Partners network for IXC access to place long distance phone calls. Access is through interconnection agreements with several IXC carriers. Nextel Partners' customers can also reach their IXC of choice by dialing the appropriate access code.

8. **Access to directory assistance.** All Nextel Partners customers receive access to 411 directory assistance service through the Nextel Partners network.

9. **Toll limitation for qualified low-income customers.** As required by the Commission's Rules, Nextel Partners, upon designation as an ETC, will make available to *qualifying low-income customers a free solution that assists these low-income persons to control their telephone costs.*⁷ Nextel Partners is fully capable of providing such a toll limiting service to its customers. Nextel Partners does not presently offer a toll limitation feature, because it is not an ETC. Upon designation as an ETC, Nextel Partners will participate in, and offer, LifeLine and Link-Up programs as required by the Commission's Rules. In accordance with Section 54.401(b) of the Commission's Rules, 47 CFR § 54.401(b), Nextel Partners will not disconnect Lifeline service for non-payment of toll charges.

C. The Alabama Public Service Commission Does Not Regulate CMRS Service

A carrier seeking designation as an ETC must typically request such a designation from the applicable state regulatory commission. However, the Alabama Public Service Commission (the "APSC") does not regulate CMRS carriers such as Nextel Partners for the purpose of making ETC determinations. An order evidencing the fact that the APSC does not regulate

⁷ *Id.* at 8821-22.

CMRS carriers is attached to this Petition as Attachment 2.⁸ This order meets the Commission's specific requirements, in that it specifies that CMRS carriers such as Nextel Partners are not subject to regulation in the State of Alabama for purposes of determinations concerning eligibility for ETC status.⁹ Nextel Partners requests that the FCC designate Nextel Partners as "a common carrier providing telephone exchange service and exchange access that is not subject to the jurisdiction of a state commission" pursuant to 47 U.S.C. § 214(e)(6).

D. Nextel Partners Will Advertise the Availability of Supported Services

Nextel Partners will advertise the availability of the above-described services and the charges therefore using media of general distribution, in accordance with the requirements of Section 54.201(d)(2) of the Commission's Rules, 47 CFR § 54.201(d)(2). Nextel Partners currently advertises the availability of its services, and will do so for each supported service on a regular basis, in newspapers, and magazines, or on radio and television, that constitute media of general distribution in Designated Areas of the State of Alabama

II. Nextel Partners Requests Designation Throughout Each of the Designated Areas Within Its Service Coverage

Nextel Partners is not a rural telephone company as defined in Section 153(37) of the Communications Act, 47 U.S.C. § 153(37). Accordingly, Nextel Partners is required to describe the geographic area(s) within which it requests designation as an ETC. Nextel Partners requests designation as an ETC throughout each of the Designated Areas within the State of Alabama, as

⁸ *Pine Belt Cellular, Inc. and Pine Belt PCS, Inc.*, Docket No. U-4400, 2002 Ala. PUC LEXIS 196 (Alabama Public Service Commission, March 12, 2002) (CMRS carriers must seek ETC status before the FCC).

⁹ *See, e.g., Cellular South License, Inc. Petition for Designation as an Eligible Telecommunications Carrier Throughout its Licensed Service Area in the State of Alabama*, CC Docket No. 96-45 2002 FCC LEXIS 6406 at ¶ 12 and n.33 (December 4, 2002) (Alabama Commission's Order found sufficient to prove that the Alabama Commission lacks jurisdiction to perform the requested ETC designation).

set forth in **Attachment 1**. As noted above, these Designated Areas consist both of study areas of rural telephone companies that Nextel Partners serves in their entirety and wire centers of non-rural incumbent LECs.¹⁰ In **Attachment 3** hereto, Nextel Partners provides a map of its service area, within which Nextel Partners provides service to the entirety of the Designated Areas listed in **Attachment 1** hereto.¹¹

III. Designation of Nextel Partners as an ETC for the Designated Areas Served by a Rural Telephone Company In the State of Alabama Would Serve the Public Interest

Certain of the Designated Areas in which Nextel Partners seeks certification are areas served by rural telephone companies as defined in Section 153(37) of the Communications Act.¹² With respect to each of these areas served by a rural telephone company, the Act requires that the Commission determine that Nextel Partners' designation as an ETC in each case is in the public interest.¹³ As demonstrated below, Nextel Partners' designation as an ETC would serve the public interest in all of the Designated Areas in a number of ways.

The Commission has determined that "[d]esignation of competitive ETCs promotes competition and benefits consumers in rural and high-cost areas by increasing customer choice, innovative services, and new technologies."¹⁴ This is particularly applicable in the Designated

¹⁰ Wireless service is inherently affected by conditions unique to wireless service providers and which conditions do not affect wireline service providers. Geography, atmospheric conditions and man-made radiofrequency and physical structure interference may at times reduce or increase a wireless user's coverage area. At the same time, the mobility and functionality of wireless phone service adds immense benefits and convenience to wireless users that wireline providers cannot match.

¹¹ For purposes of this Petition, the coverage map provided in **Attachment 3** hereto reflects the result of a conservative radiofrequency propagation analysis assuming a three-watt wireless phone.

¹² See **Attachment 1** hereto.

¹³ See 47 U.S.C. § 214(e)(6).

¹⁴ See *Western Wireless Corporation Petition for Designation as an Eligible Telecommunications Carrier in the State of Wyoming*, Memorandum Opinion and Order, CC

Areas served by rural telephone companies within the State of Alabama, many of which are rural, and in some cases remote, areas that in most cases are not presently served by competitive wireline carriers that could provide an alternative to the incumbent LEC. Designation of Nextel Partners as an ETC will provide a valuable alternative to the existing telecommunications regime in these areas, including a larger local calling area, the benefits of mobile telephony service and, where requested by the PSAP, GPS location assistance for customers calling 911.

In addition, designation of Nextel Partners as an ETC will provide an incentive to the incumbent LECs in all of the Designated Areas to improve their existing networks in order to remain competitive, resulting in improved services to consumers. Designation of Nextel Partners as an ETC in each case will also benefit consumers because support to services provided by Nextel Partners will help assure that quality services are available at “just, reasonable, and affordable rates” as envisioned in the Act.¹⁵

Designation of Nextel Partners as an ETC will also serve the public interest in all of the Designated Areas because Nextel will provide all of the supported services required by the Commission, will participate in the LifeLine and Link-Up programs as required by the Commission’s Rules, and will otherwise comply with all FCC Rules governing universal service programs, which are designed to ensure that the public interest standards of the Act are achieved. Allowing Nextel Partners access to universal service subsidies will allow Nextel Partners to continue to enhance and expand its network infrastructure to better serve consumers in underserved, high-cost areas of the State of Alabama, and to compete with other carriers on a level regulatory playing field.

Docket No. 96-45, 16 FCC Rcd 48, 55 (2000).

¹⁵ See 47 U.S.C. § 254(b)(1).

Finally, designation of Nextel Partners as an ETC will serve the public interest in all of the Designated Areas by further promoting the extensive role Nextel Partners plays in the provision of communications services to Alabama public schools, libraries and local, state and federal government agencies, specifically law enforcement. At the time of this filing, Nextel Partners is the wireless carrier of choice for over 14 Alabama public universities, schools and libraries, 48 divisions of Federal Government agencies in Alabama, 12 state-level agencies, and in excess of 49 local government agencies, extensively including police, fire and similar first-responders.

Accordingly, designation of Nextel Partners as an ETC will serve the public interest.

IV. Anti-Drug Abuse Certification

No party to this Petition is subject to denial of federal benefits pursuant to Section 5301 of the Anti-Drug Abuse Act of 1988, 21 U.S.C. Section 862.¹⁶

V. High-Cost, Interstate Access, and Interstate Common Line Support Certification

Under Sections 54.313, 54.314 and 54.904 of the Commission's Rules, as well as 47 C.F.R. § 54.809, carriers wishing to obtain universal service support must either be certified by the appropriate state commission or, where the state commission does not exercise jurisdiction, must self-certify with the Commission and the Universal Service Administrative Company ("USAC") as to their compliance with Section 254(e) of the Act. As explained above, the PPUC does not exercise jurisdiction over CMRS carriers such as Nextel Partners. Therefore, Nextel Partners has submitted its high-cost, interstate access and interstate common line support certification letters with the Commission and with USAC. Copies of these certifications are

¹⁶ See Declaration of Donald Manning, **Attachment 5** hereto.

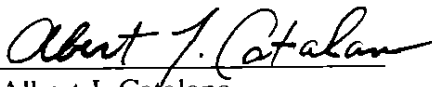
attached hereto as **Attachment 4**. Nextel Partners respectfully requests that the Commission issue a finding that Nextel Partners has met the high-cost, interstate access and interstate common lines support certification requirement and that Nextel Partners is, therefore, entitled to begin receiving such support, where available, as of the date it receives a grant of ETC status in order that funding will not be delayed.¹⁷

VI. Conclusion

Because the requirements for eligibility for designation as an eligible telecommunications carrier have been met, Nextel requests that the Commission promptly grant this Petition.

Respectfully submitted,

NPCR, INC. d/b/a NEXTEL PARTNERS

By 
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Counsel for Nextel Partners

Date: April 4, 2003

¹⁷ See Guam and Cellular Paging, Inc. Petition for Waiver of FCC Rule Section 54.314, filed February 6, 2002.

ATTACHMENT 1

Designated Areas for which Nextel Partners
seeks ETC designation in this Petition

1. Rural Telephone Company Study Areas

250284 Butler (now TDS)
250285 Castleberry
250295 Graceba Total Comm
250299 Hayneville Tel Co
250301 Frontier-Lamar County
250304 Millry Tel Co
250305 Mon-Cre Tel Coop
250306 Frontier Comm Al
250307 Moundville Tel Co
250315 Pine Belt Tel Co
250318 Frontier Comm South
250322 Union Springs Tel Co.

2. Non Rural Wire Centers

VERIZON WIRE CENTERS (SACs 250281 and 250293)

VERIZON COMMUNICATIONS, INC	ABVLALXA
VERIZON COMMUNICATIONS, INC	ACVLALXA
VERIZON COMMUNICATIONS, INC	ANDSALXA
VERIZON COMMUNICATIONS, INC	ARITALXA
VERIZON COMMUNICATIONS, INC	ASLDALXA
VERIZON COMMUNICATIONS, INC	BLBTALXA
VERIZON COMMUNICATIONS, INC	BNKSALXA
VERIZON COMMUNICATIONS, INC	BRNDALXA
VERIZON COMMUNICATIONS, INC	CLIOALXA
VERIZON COMMUNICATIONS, INC	CLMAALXA
VERIZON COMMUNICATIONS, INC	DLVLALXA
VERIZON COMMUNICATIONS, INC	DPISALXA
VERIZON COMMUNICATIONS, INC	DTHNALXA
VERIZON COMMUNICATIONS, INC	ELBAALXA
VERIZON COMMUNICATIONS, INC	ENTRALXA
VERIZON COMMUNICATIONS, INC	FRHMALXA

VERIZON COMMUNICATIONS, INC	FWRVALXA
VERIZON COMMUNICATIONS, INC	FYTTALXA
VERIZON COMMUNICATIONS, INC	GDBAALXA
VERIZON COMMUNICATIONS, INC	GENVALXA
VERIZON COMMUNICATIONS, INC	GNVLALXA
VERIZON COMMUNICATIONS, INC	GRGNALXA
VERIZON COMMUNICATIONS, INC	HDLDALXA
VERIZON COMMUNICATIONS, INC	HRFRALXA
VERIZON COMMUNICATIONS, INC	IRSEALXA
VERIZON COMMUNICATIONS, INC	JMSNALXA
VERIZON COMMUNICATIONS, INC	LNCLALXA
VERIZON COMMUNICATIONS, INC	LSVLALXA
VERIZON COMMUNICATIONS, INC	LVRNALXA
VERIZON COMMUNICATIONS, INC	MLCYALXA
VERIZON COMMUNICATIONS, INC	NTSLALXA
VERIZON COMMUNICATIONS, INC	NWBCALXA
VERIZON COMMUNICATIONS, INC	NWTNALXA
VERIZON COMMUNICATIONS, INC	OPP ALXA
VERIZON COMMUNICATIONS, INC	OZRKALXA
VERIZON COMMUNICATIONS, INC	RCFRALXA
VERIZON COMMUNICATIONS, INC	RDLVALXA
VERIZON COMMUNICATIONS, INC	SCBOALXA
VERIZON COMMUNICATIONS, INC	SLCMALXA
VERIZON COMMUNICATIONS, INC	SMSNALXA
VERIZON COMMUNICATIONS, INC	THRSALXA
VERIZON COMMUNICATIONS, INC	TLLSALXA
VERIZON COMMUNICATIONS, INC	TSVLALXA
VERIZON COMMUNICATIONS, INC	WCBGALXA
VERIZON COMMUNICATIONS, INC	WDLYALXA
VERIZON COMMUNICATIONS, INC	WEDWALXA

BELLSOUTH WIRE CENTERS (SAC 255181)

BELLSOUTH CORP	ALBSALMA
BELLSOUTH CORP	ALCYALMT
BELLSOUTH CORP	ALVLALMA
BELLSOUTH CORP	ANTNALLE
BELLSOUTH CORP	ANTNALMT
BELLSOUTH CORP	ANTNALOX
BELLSOUTH CORP	AUBNALMA
BELLSOUTH CORP	BLFNALMA
BELLSOUTH CORP	BOAZALMA
BELLSOUTH CORP	BRHMALCH
BELLSOUTH CORP	BRHMALCP
BELLSOUTH CORP	BRHMALEL
BELLSOUTH CORP	BRHMALEN

BELLSOUTH CORP	BRHMALEW
BELLSOUTH CORP	BRHMALFO
BELLSOUTH CORP	BRHMALFS
BELLSOUTH CORP	BRHMALHW
BELLSOUTH CORP	BRHMALMT
BELLSOUTH CORP	BRHMALOM
BELLSOUTH CORP	BRHMALOX
BELLSOUTH CORP	BRHMALRC
BELLSOUTH CORP	BRHMALTA
BELLSOUTH CORP	BRHMALVA
BELLSOUTH CORP	BRHMALWE
BELLSOUTH CORP	BRHMALWL
BELLSOUTH CORP	BRTOALMA
BELLSOUTH CORP	BSMRALBU
BELLSOUTH CORP	BSMRALHT
BELLSOUTH CORP	BSMRALMA
BELLSOUTH CORP	BYMNALMA
BELLSOUTH CORP	CALRALMA
BELLSOUTH CORP	CHLSALMA
BELLSOUTH CORP	CLANALMA
BELLSOUTH CORP	CLMBALMA
BELLSOUTH CORP	CLMNALMA
BELLSOUTH CORP	CNTMFLE
BELLSOUTH CORP	CTRNALNM
BELLSOUTH CORP	DCTRALMT
BELLSOUTH CORP	DDVLALMA
BELLSOUTH CORP	DORAALMA
BELLSOUTH CORP	EUFLALMA
BELLSOUTH CORP	EUTWALMA
BELLSOUTH CORP	EVRGALMA
BELLSOUTH CORP	FLRNALMA
BELLSOUTH CORP	FMTNALMT
BELLSOUTH CORP	FRHPALMA
BELLSOUTH CORP	FTDPALMA
BELLSOUTH CORP	GDSDALHS
BELLSOUTH CORP	GDSDALMT
BELLSOUTH CORP	GDSDALRD
BELLSOUTH CORP	GRDLALNM
BELLSOUTH CORP	GTVLALNM
BELLSOUTH CORP	GYVLALNM
BELLSOUTH CORP	HLVIALMA
BELLSOUTH CORP	HNVIALLW
BELLSOUTH CORP	HNVIALMT
BELLSOUTH CORP	HNVIALPW
BELLSOUTH CORP	HNVIALRA
BELLSOUTH CORP	HNVIALRW
BELLSOUTH CORP	HNVIALUN
BELLSOUTH CORP	HNVLALNM

BELLSOUTH CORP	HRBOALOM
BELLSOUTH CORP	HZGRALMA
BELLSOUTH CORP	JCSNALNM
BELLSOUTH CORP	JCVLALMA
BELLSOUTH CORP	JSPRALMT
BELLSOUTH CORP	LFYTALRS
BELLSOUTH CORP	LGRNGAMA
BELLSOUTH CORP	LNDNALMA
BELLSOUTH CORP	MCINALMA
BELLSOUTH CORP	MDSNALNM
BELLSOUTH CORP	MNTVALNM
BELLSOUTH CORP	MOBLALAP
BELLSOUTH CORP	MOBLALAZ
BELLSOUTH CORP	MOBLALBF
BELLSOUTH CORP	MOBLALOS
BELLSOUTH CORP	MOBLALPR
BELLSOUTH CORP	MOBLALSA
BELLSOUTH CORP	MOBLALSE
BELLSOUTH CORP	MOBLALSF
BELLSOUTH CORP	MOBLALSH
BELLSOUTH CORP	MOBLALSK
BELLSOUTH CORP	MOBLALTH
BELLSOUTH CORP	MPVLALMA
BELLSOUTH CORP	MTGMALDA
BELLSOUTH CORP	MTGMALMB
BELLSOUTH CORP	MTGMALMT
BELLSOUTH CORP	MTGMALNO
BELLSOUTH CORP	MTVRALMA
BELLSOUTH CORP	OPLKALMT
BELLSOUTH CORP	PDMTALMA
BELLSOUTH CORP	PHCYALFM
BELLSOUTH CORP	PHCYALMA
BELLSOUTH CORP	PNSNALMA
BELLSOUTH CORP	PRVLALMA
BELLSOUTH CORP	SELMALMT
BELLSOUTH CORP	SYLCALMT
BELLSOUTH CORP	THVLALMA
BELLSOUTH CORP	TLDGALMA
BELLSOUTH CORP	TROYALMA
BELLSOUTH CORP	TSCLALDH
BELLSOUTH CORP	TSCLALMT
BELLSOUTH CORP	TSKGALMA
BELLSOUTH CORP	VNCNALMA
BELLSOUTH CORP	WBTNALNM
BELLSOUTH CORP	WRRRALNM
BELLSOUTH CORP	WTMPALMA
BELLSOUTH CORP	YORKALMA

ATTACHMENT 2

Order establishing that APSC does not regulate CMRS Carriers

1 of 1 DOCUMENT

PINE BELT CELLULAR, INC. and PINE BELT PCS, INC., Joint Petitioners
PETITION: For ETC status and/or clarification regarding the jurisdiction of the
Commission to grant ETC status to wireless carriers.

DOCKET U-4400

Alabama Public Service Commission

2002 Ala. PUC LEXIS 196

March 12, 2002

[*1] Jim Sullivan, President; Jan Cook, Commissioner; George C. Wallace, Jr., Commissioner

OPINION: ORDER

BY THE COMMISSION:

In a joint pleading submitted on September 11, 2001, **Pine Belt Cellular, Inc.** and **Pine Belt PCS, Inc.** (collectively referred to as "Pine Belt") each notified the Commission of their desire to be designated as universal service **eligible telecommunications carriers** ("ETCs") for purposes of providing wireless ETC service in certain of the non-rural Alabama wireline service territories of **BellSouth Telecommunications, Inc.** ("BellSouth") and **Verizon South, Inc.** ("Verizon"). The Pine Belt companies noted their affiliation with **Pine Belt Telephone Company**, a provider of wireline telephone service in rural Alabama, but clarified that they exclusively provide cellular telecommunications and personal communications (collectively referred to as "CMRS" or "wireless") services in their respective service areas in Alabama in accordance with licenses granted by the Federal Communications Commission ("FCC"). The pivotal issue raised in the joint pleading of Pine Belt companies is whether the Commission will assert jurisdiction in this matter given the wireless status of the **[*2]** Pine Belt companies.

As noted in the filing of the Pine Belt companies, state Commissions have primary responsibility for the designation of **eligible telecommunications carriers** in their respective jurisdictions for universal service purposes pursuant to 47 USC § 214(e). The Commission indeed established guidelines and requirements for attaining ETC status in this jurisdiction pursuant to notice issued on October 31, 1997.

For carriers not subject to state jurisdiction, however, § 214(e)(6) of the Telecommunications Act of 1996 provides that the FCC shall, upon request, designate such carriers as ETCs in non-rural service territories if said carriers meet the requirements of § 214(e)(1). In an FCC Public Notice released December 29, 1997 (FCC 97-419) entitled "Procedures for FCC designation of **Eligible Telecommunications Carriers** pursuant to § 214(e)(6) of the Telecommunications Act", the FCC required each applicant seeking ETC designation from the FCC to provide, among other things, "a certification and brief statement of supporting facts demonstrating that the Petitioner is not subject to the jurisdiction of a state Commission."

The Pine Belt companies **[*3]** enclosed with their joint pleading completed ETC application forms as developed by the Commission. In the event the Commission determines that it does not have jurisdiction to act on the Pine Belt request for ETC status, however, the Pine Belt companies seek an affirmative written statement from the Commission indicating that the Commission lacks jurisdiction to grant them ETC status as wireless carriers.

The issue concerning the APSC's jurisdiction over providers of cellular services, broadband personal communications services, and commercial mobile radio services is one that was rather recently addressed by the Commission. The Commission indeed issued a Declaratory Ruling on March 2, 2000, in Docket 26414 which concluded that as the result of certain amendments to the Code of Alabama, 1975 § 40-21-120(2) and (1)(a) effectuated

in June of 1999, the APSC has no authority to regulate, *in any respect*, cellular services, broadband personal communications services and commercial mobile radio services in Alabama. Given the aforementioned conclusions by the Commission, it seems rather clear that the Commission has no jurisdiction to take action on the Application of the Pine Belt [*4] companies for ETC status in this jurisdiction. The Pine Belt companies and all other wireless providers seeking ETC status should pursue their ETC designation request with the FCC as provided by 47 USC § 214(e)(6).

IT IS, THEREFORE, ORDERED BY THE COMMISSION, That the Commission's jurisdiction to grant **Eligible Telecommunications Carrier** status for universal service purposes does not extend to providers of cellular services, broadband personal communications services, and commercial mobile radio services. Providers of such services seeking **Eligible Telecommunications Carrier** status should accordingly pursue their requests through the Federal Communications Commission.

IT IS FURTHER ORDERED, That this Order shall be effective as of the date hereof.

DONE at Montgomery, Alabama, this 12th day of March, 2002.

ALABAMA PUBLIC SERVICE COMMISSION

Jim Sullivan, President

Jan Cook, Commissioner

George C. Wallace, Jr., Commissioner

ATTACHMENT 3

Map of Nextel Partners' coverage areas
in the State of Alabama

ATTACHMENT 4

Nextel Partners' Certification Letters

March 27, 2003

Via FedEx

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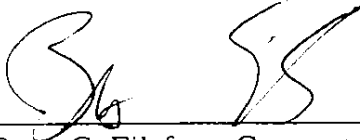
Marlene H. Dortch
Office of the Secretary
FCC
445 – 12th Street, SW
Washington, DC 20554

Re: CC Docket No. 96-45
High Cost Loop Support
Initial Certification Filing

This is to certify pursuant to 47 C.F.R. §§54.313 and 54.314 that NPCR, Inc., d/b/a Nextel Partners, will use any Universal Service High Cost Loop Support received in 2003 only for the provision, maintenance, and upgrading of facilities and services for which the support is intended.

I am authorized to make this certification on behalf of Nextel Partners. This certification is for the following study areas in the **State of Alabama**:

250284 Butler 250285 Castleberry 250295 Graceba Total Comm 250299 Hayneville Tel Co 250301 Frontier-Lamar County 250304 Millry Tel Co 250305 Mon-Cre Tel Coop 250306 Frontier Comm AL 250307 Moundville Tel Co	250315 Pine Belt Tel Co 250318 Frontier Comm South 250322 Union Springs Tel Co.
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March 27, 2003

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Marlene H. Dortch
Office of the Secretary
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445 – 12th Street, SW
Washington, DC 20554

Re: CC Docket No. 96-45
Interstate Common Line Support and Long Term Support-ICLS
Initial Certification Filing

This is to certify pursuant to 47 C.F.R. §54.904 that NPCR, Inc., d/b/a Nextel Partners, will use its Interstate Common Line Support and Long Term Support only for the provision, maintenance, and upgrading of facilities and services for which the support is intended.

I am authorized to make this certification on behalf of Nextel Partners. This certification is for the study areas located in the **State of Alabama** listed below:

250285 Castleberry 250295 Graceba Total Comm 250299 Hayneville Tel Co 250304 Millry Tel Co 250305 Mon-Cre Tel Coop 250307 Moundville Tel Co 250315 Pine Belt Tel Co 250322 Union Springs Tel Co.	
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2120 L Street, NW, Suite 600
Washington, DC 20037

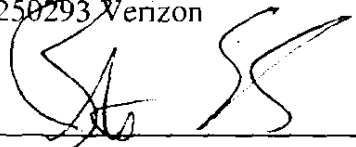
Marlene H. Dortch
Office of the Secretary
FCC
445 – 12th Street, SW
Washington, DC 20554

Re: CC Docket No. 96-45
Interstate Access Support - IAS
Initial Certification Filing

This is to certify pursuant to 47 C.F.R. §809 that NPCR, Inc., d/b/a Nextel Partners, will use any Universal Service Interstate Access Support received in 2003 only for the provision, maintenance, and upgrading of facilities and services for which the support is intended.

I am authorized to make this certification on behalf of Nextel Partners. This certification is for the following study areas in the **State of Alabama**:

250306 Frontier Comm AL
250318 Frontier Comm South
255181 Bellsouth
259788 Century Tel AL, LLC (Southern)
259789 Century Tel AL, LLC (Northern)
250281 Verizon
250293 Verizon



Brent G. Eilefson, Corporate Counsel
NPCR, Inc. d/b/a Nextel Partners
10120 West 76th Street
Eden Prairie, MN 55344
952-238-2572

ATTACHMENT 5

Declaration of Donald Manning

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Federal-State Joint Board on)	CC Docket 96-45
Universal Service)	
)	
NPCR, INC. d/b/a NEXTEL PARTNERS)	
)	
Petition for Designation as an)	
Eligible Telecommunications Carrier)	
in the State of Alabama)	
_____)	

Declaration of Donald Manning

I, the undersigned Donald J. Manning, do hereby declare under penalty of perjury as follows:

1. I serve as Vice-President and General Counsel for Nextel Partners, Inc. ("Nextel Partners") and each of its subsidiary companies, including, but not limited to, NPCR, Inc. d/b/a Nextel Partners.

2. NPCR, Inc. is a wholly-owned, operational-arm subsidiary of Nextel Partners Operating Corp., which is a wholly-owned, operational subsidiary of Nextel Partners, Inc..

3. Nextel Partners, Inc. is a publicly-traded company with its common stock listed on the Nasdaq market, and is broadly owned by both institutional and individual investors.

4. Nextel Partners, Inc.'s President is John Chapple. Vice Presidents include Don Manning, Perry Satterlee, John Thompson, Mark Fanning, and Dave Aas. Entities with 5% or more equity positions with Nextel Partners, Inc. include: Credit Suisse First Boston through several funds held by DLJ Merchant Banking, Madison Dearborn Partners, Wellington Management Co., Eagle River Investments, Motorola, Cascade Investments (an investment company controlled by William H. Gates, III), and Nextel Communications, Inc.

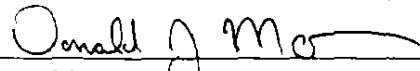
5. This Declaration is submitted in support of Nextel Partners' "Petition for Designation As an Eligible Telecommunications Carrier," to which this Declaration is appended.

6. I declare and certify as follows, and as described in the aforementioned Petition, that: Nextel Partners is not subject to the jurisdiction of the Alabama Public Service Commission; that Nextel Partners offers, or will offer, all of the services designated by the Commission for support pursuant to Section 254(c)(3) of the Act; that Nextel Partners offers, or will offer, the supported services using its own facilities; and that Nextel Partners advertises, or will advertise, the availability of supported services and the charges therefore using media of general distribution as described in the annexed Petition.

7. I further declare that I have reviewed the annexed Petition and that the facts stated therein, of which I have personal knowledge, are true and correct to the best of my knowledge and belief.

8. I further declare that to the best of my knowledge, Nextel Partners, including all officers, directors, or persons holding 5% or more of the outstanding stock or shares (voting and/or nonvoting) of Nextel as specified in Section 1.2002(b) of the Commission's Rules are not subject to denial of federal benefits, pursuant to Section 5301 of the Anti-Drug Abuse Act of 1988, 21 U.S.C. Section 862.

I declare under penalty of perjury that the foregoing is true and correct to the best of my information and belief.



Donald J. Manning
Vice President and General Counsel
NPCR, Inc. d/b/a Nextel Partners

Dated: March 31, 2003

CERTIFICATE OF SERVICE

The undersigned, an attorney in the law firm of Catalano & Plache, PLLC hereby certifies that on this 4th day of April, 2003, a true and correct photocopy of the foregoing "Petition" was sent by hand delivery to the following person:

Richard Smith
Accounting Policy Division
Federal Communications Commission
445 12th Street, SW
Room 5-A660
Washington, DC 20554



Ronald J. Jarvis